IN THE

Supreme Court of the United States

OCTOBER TERM, 1957

No. 21

INTERNATIONAL UNION, UNITED AUTOMOBILE, AIRCRAFT AND AGRICULTURAL IMPLEMENT WORKERS OF AMERICA (UAW-CIO), An Unincorporated Labor Organization, and MICHAEL VOLK, An Individual,
Petitioners,
vs.
PAUL S. RUSSELL,
Respondent

ON WRIT OF CERTIORARI TO THE SUPREME COURT OF ALABAMA

REPLY BRIEF AND APPENDIX FOR PETITIONERS

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I.

NO IMMUNITY FROM LIABILITY

The technique employed by Respondent in his brief is to set up a number of straw men (propositions not contended for by Petitioners) and then to proceed to knock these down with great vigor. This is true, for example, of most of the discussion relating to the *Laburnum* case contained in Respondent's brief.

In addition, Respondent asserts that Petitioners are asking this Court to grant them immunity from liability for their torts (Brief of Respondent, page 59).

We do not here contend that a State court cannot award damages because of physical assault and injuries, including a loss of wages incurred because of inability to attend work on account of the physical injuries; we do not here contend that it cannot compensate for damages to an automobile; and we do not here contend that the State cannot maintain public peace and order by the exercise of its police powers through injunctions or criminal statutes. State jurisdiction in all of these matters exists and can be exercised independently and separately from a labor relations background.

We contend only that the protection of the right to engage in concerted activities, including the right to strike and to picket, and, the protection of the right to refrain from any of these activities, including the right to work during a strike, have been delegated exclusively to the National Labor Relations Board.

Respondent's assertion that Petitioners are asking this Court to grant them immunity from liability is refuted by Argument F, pages 45-56, and Appendix D of Petitioners' brief, in which it is shown that, under judicial precedent and the legislative history, the National Labor Relations Board has authority to award back pay to employees whose right to work is interfered with during a strike by restraint or coercion.

We do not believe that it is necessary for the Court to reach or decide this question but we do assert that the power of the Board to enter remedial reparation orders extends to any type of affirmative relief designed to effectuate the policies of the Act.

To the presentation of judicial precedents and legislative history contained in Petitioners' Brief and set forth in the opinion of Board Member Reynolds in Appendix D, we add the words of Senator Hatch, reiterating the intention of the Senate[1] as to the remedial authority of the Board:

> "The amendments of Section 10 (c) authorizing the Board to charge unions with back pay in the event the union is guilty of an unfair labor practice, seem fair enough, although I anticipate some difficulty on the Board's part in assigning responsibility for the initiation of strikes in many cases." (93 Cong. Rec. 5137.)

II.

VIOLENCE CANNOT BE THE CRITERION NEGATING FEDERAL PREEMPTION

Respondent would have the Court decide that a mere allegation of actual or threatened violence in State court pleadings opens the door for any action the State court may wish to take even though it affects labor relations and rights of employees affecting interstate commerce.[2]

To sustain this position, he cites quotations from the legislative history indicating that Congress did not in-

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[1] The meaning of Section 10 (c) is explained by both House Report 245 and Senate Report 105, 80th Cong., 1st Sess. See Appendices to Petitioners' Brief, pages 31a, 32a.

[2] As authority for the proposition that common law rights are not repealed by implication, Respondent cites *Texas & Pacific R. R. v. Abilene Cotton Oil Co.*, 204 U. S. 426 and *Isbrandsten Co. v. Johnson*, 343 U. S. 779. In both of these cases the Court held, just as it has uniformly held in its decisions construing the Taft-Hartley Act, that giving effect to State common law rights would defeat Congressional aims of uniformity.

tend to prevent the exercise of the police power of the states to maintain public peace and order. For instance:

> "Senator Ball * * *: '* * * such practices (double initiation fees) do not fall within the purview of State Laws against violence * * *.
>
> "'scurrilous remarks * * * and all kinds of abuse, even verging on physical violence, but very often not reaching the point where State law would come into effect.'" Brief of Respondent, p. 30.
>
> "Senator Ives * * *: '* * * offenses of this type (violence and physical coercion) are punishable under State and local police law.'" *Ibid.*, p. 31.
>
> "Senator Taft * * *: '* * * suppose there is duplication in *extreme cases;* suppose there is a threat of violence constituting *violation* of the law of the State.'" *Ibid.*, p. 31. (Emphasis added.)
>
> "Senator Taft * * *: '* * * Of course if *administrative law fails,* it would be necessary finally to resort to *police power* of the States.'" *Ibid.*, p. 32. (Emphasis added.)
>
> "Senator Taft * * *: '* * * It will duplicate some of the State laws *only* to the extent, as I see it, that *actual violence* is involved either in the threat or in the operation * * *.
>
> "'* * * Secondary boycotts, jurisdictional strikes, and so forth, may involve some violation of State law respecting violence *which may be criminal,* and so to some extent the measure may be duplicating the remedy existing under State law.'" *Ibid.*, pp. 33-34. (Emphasis added.)

Thus, all of the quotations relied upon by Respondent either refer to types of coercion not reached by State law, or to the exercise solely of the police power of the State to control the public peace and order. While the Court

is thoroughly familiar with this aspect of the legislative history, the Appendix to this Reply Brief contains excerpts from the legislative history which show that Congress intended to preempt the field covered by the Act, that only the police power to maintain public peace and order was intended to be left to the States, and that Congress considered and specifically rejected the "court approach" to the protection of employee rights and, instead, adopted the "administrative-law approach."

The last factor deserves brief comment here. H. R. 3020 in Section 12 provided for private court suits by employees for invasions of their right to work. The Conference Committee rejected this and recommended the amended Section 7 and Section 8 (b) (1) as the means of protecting these rights. Congressmen Hartley and Halleck assured the House that the administrative procedure provided would be "effective." 93 Cong. Rec. 6540, 6548; See Appendix, *infra*, House Debate. Both houses of Congress endorsed the retention of the administrative law approach and the conference bill was adopted. House Conference Report 510 accentuates the fact that it was intended that the Board should decide the merits of claims concerning invasions of employee rights (as distinguished from summary police power measures) saying: "Then, too, under the provisions of Section 10 (k) of the conference agreement the Board can seek a temporary injunction enjoining these practices pending *its decision on the merits.*"[3]

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[3] Respondent's Brief at pages 35-36 quotes, out of context, a passage from Conference Report 510 but significantly omits this sentence, which immediately follows, in the same paragraph, the passage quoted by Respondent. The reference in the Conference Report to Section 302 (b), relied upon by Respondents, standing alone, is non-sensical, as Section

(Continued on next page)

H. R. Conf. Rept. 510, 80th Cong., 1st Sess. 546-547. (Emphasis added.)

As this Court pointed out in *Amalgamated Association of Street, Electric Ry., etc., Employees v. W. E. R. B.*, 340 U. S. 383, 390, by these provisions Congress "saw fit to regulate *labor relations* to the full extent of its constitutional power." It defined the protection of "the rights of individual employees in their relations with labor organizations" as a legitimate subject of *labor relations*. 29 U. S. C. 141 (b). (Emphasis added.)

(Continued from preceding page)

302 (b) refers to payments to labor organizations, Section 301 refers to breach of contract suits and Section 303 refers to secondary boycott and jurisdictional strike actions. Furthermore, considered in the light of the sentence omitted by Respondent and here quoted, and in the light of the explanations of Congressmen Hartley and Halleck, text *supra*, it becomes apparent that the reference to Section 302 (b) is erroneous and meaningless.

Respondent also contends (Respondent's Brief, p. 35) that the elimination of the word "exclusive" from Section 10 (a), with reference to the power of the Board to remedy unfair labor practices, is an indication that Congress intended that unfair labor practices could be remedied by private court action and cites a partial passage from House Conference Report 510, 80th Cong., 1st. Sess., 52. The entire quote, which was lucidly held in *Amazon Cotton Mills Co. v. NLRB.*, 167 F. 2d 183 (C. A. 4), not to have this effect, is as follows:

> "'The House bill omitted from section 10 (a) of the existing law the language providing that the Board's power to deal with unfair labor practices should not be affected by other means of adjustment or prevention, but it retained the language of the present act which makes the Board's jurisdiction exclusive. The Senate amendment, *because of its provisions authorizing temporary injunctions enjoining alleged unfair labor practices and because of its provisions making unions suable*, omitted the language giving the Board exclusive jurisdiction of unfair labor practices, but retained that which provides that the Board's power shall not be affected by other means of adjustment or prevention. The conference agreement adopts the provisions of the Senate amendment by retaining language which provides the Board's powers under section 10 shall not be affected by other means of adjustment. The conference agreement makes clear that, when two remedies exist, one before the Board and one before the courts, the remedy before the Board shall be in addition to, and not in lieu of, other remedies.'" (Emphasis added.)

If a mere allegation of actual or threatened violence in state court pleadings will invest the state court with blanket authority to take any regulatory action it sees fit, the state court is hereby authorized to regulate labor relations and to invade the exclusive province of the National Labor Relations Board. Moreover, state court jurisdiction cannot be made to depend upon the degree of actual or threatened violence, as such a criterion is too vague and uncertain. One state court might hold that a casual comment of "scab" was coercive.[4] Another might hold that actual physical injury was necessary as a basis for its jurisdiction. Thus the object of uniformity and equality in *labor relations* sought to be attained by Congress would be defeated. This aim of uniformity is not dependent upon the *degree* of misconduct involved.

Solely by giving to the congressional history its natural intendment, and by adhering to the precedents already established by the Court,[4] that only the exercise of the *police power* to maintain public peace and order remains to the States, can the Congressional objective of uniformity and equality in *labor relations* be attained.

III.

CRITERIA OF PREEMPTION RESTATED

Violence, therefore, cannot be the criterion which negates preemption. The true test of preemption is not so simple. Its criteria are present, however, where Congress, having jurisdiction, has defined and guaranteed correlative and interbalancing rights, has established the aim of uniformity and equality in the protection of the rights, and has in-

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[4] *United Automobile Workers v. O'Brien*, 339 U. S. 454; *Bus Drivers v. W. E. R. B.*, 340 U. S. 383; *Garner v. Teamsters Union*, 346 U. S. 485; *United Automobile Workers v. Kohler Co.*, 351 U. S. 266.

vested an administrative authority with the power and jurisdiction to administer the rights and redress invasions of them to the end of uniformity and equality. In such a case uniformity cannot be attained in a multiplicity of tribunals and the administrative procedures provided must be held to be exclusive.

The evidence and the charges given to the jury by the trial court demonstrate that this case involves solely the interbalancing of employee rights guaranteed by the National Labor Relations Act, as amended, and that the interpretation and protection of these Federal rights have here been committed to a trial court jury.

Respectfully submitted,

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APPENDIX TO REPLY BRIEF

ADDITIONAL INDICIA FROM LEGISLATIVE HISTORY AS TO INTENT OF CONGRESS

I.

SCOPE OF THE LEGISLATION

I. Scope of the legislation—That Congress intended the Taft-Hartley Act should be a comprehensive code of *labor relations* is best indicated in the Act's preamble (29 U. S. C. §141 (b)), which declares that it is the:

> "purpose and policy of this chapter * * * to prescribe the legitimate rights of both employees and employers in their relations affecting commerce, *to provide orderly and peaceful procedures* for preventing the interference by either with the legitimate rights of the other, *to protect the rights of individual employees in their relations with labor organizations* whose activities affect commerce, to define and proscribe practices on the part of labor and management which affect commerce and are inimical to the general welfare, and to protect the rights of the public in connection with labor disputes affecting commerce." (Emphasis added.)

Concerning the effect of these statements of purpose, House Report 245, 80th Cong., 1st Sess. (1947), says at page 44:

> "by the Labor Act Congress preempts the field that the Act covers insofar as commerce within the meaning of the Act is concerned."

"Since the N. L. R. B. was given jurisdiction to enforce the rights of the employees, it was clear that the Federal Act had occupied this field to the exclusion of State regulation." *Amalgamated Association of Street, Electric Railway, etc. Employees v. Wisconsin Employment Relations Board*, 340 U. S. 383, 390, note 12.

II.

ONLY THE POLICE FUNCTION WAS INTENDED TO BE LEFT TO THE STATES

II. Only the Police Function Was Intended to be left to the States.—"Congress saw fit to regulate labor relations to the full extent of its constitutional power" (*Bus Drivers Case, supra,* 340 U. S. at page 390), and intended that only the police function—the maintenance of public peace and order—should remain to the states insofar as strikes affecting interstate commerce are concerned. This fact is indicated by the following excerpts from the legislative history.

A. Committee Reports

H. R. Rep. 245, 80th Cong. 1st Sess. 6 (1947), says of H. R. 3020:

"(12) It outlaws mass picketing and other forms of violence designed to prevent individuals from entering or leaving a place of employment."

This feature of the bill was objected to in House Minority Report 245, at page 84, as follows:

"The effective remedy to such offenses must be a summary one. Arrest, criminal trial, fine or imprisonment upon conviction. An administrative hearing followed some months or years later by a cease-and-desist order or deprivations of all rights

under the Act would be useless. The remedy would not only be slow, but would seek to apply the administrative techniques of a *remedial* statute to offenses that call for a policeman. (Emphasis added.)

"We assert that Congress should not consider the impractical suggestion that the Federal Government take over local police functions."

In their Supplemental Views contained in Senate Report 105 on S. 1126, 80th Cong., 1st Sess. (1947), at page 50, Senators Taft, Ball, Donnell and Jenner expressed the following view which was ultimately incorporated in the Senate bill by the Ball amendment:

"The committee heard many instances of union coercion of employees such as that brought about by threats of reprisal against employees and their families in the course of organizing campaigns; also direct interference by mass picketing and other violence. Some of these acts are illegal under State law, but we see no reason why they should not also constitute unfair labor practices to be investigated by the National Labor Relations Board, and at least deprive the violators of any protection furnished by the Wagner Act. We believe that the freedom of the individual workman should be protected from duress by the union as well as from duress by the employer."

Explaining the provisions of the bill which was reported from the Conference Committee and which was ultimately passed by both houses of Congress, House Conference Report 510 on H. R. 3020, 80th Cong., 1st Sess. (1947), states at pages 543-544:

"That provision (Section 7), as heretofore stated, provides that employees are also to have the right to refrain from joining in concerted activities with their fellow employees if they choose to do so."

Explaining how Section 8 (b) (1) of the Conference bill gave power to the Board to remedy unfair labor practices, as an alternative to the private injunctive and damage suit remedies provided by Section 12 (a) (1) of the original House bill, House Conference Report 510 on H. R. 3020, says at pages 546-547:

> "Then, too, under the provisions of Section 10 (k) of the conference agreement the Board can seek a temporary injunction enjoining these practices *pending its decision on the merits.*" (Emphasis added.)

B. House Debate

From the debate in the House on H. R. 3020, the following comments concerning Section 12 (a) (1), which was ultimately replaced by Section 8 (b) (1) appear:

> Congressman Hartley: "Eighteenth. The right to go to and from his work without being threatened or molested—Section 12 (a) (1)." (93 Cong. Rec. 3535.)

> Congressman McConnell: "This bill seeks to protect the freedom of the individual worker. It attempts to emancipate him from abuses of power by either a labor organization or an employer." (93 Cong. Rec. 3550.)

> Congressman Gwinn: "The new Hartley Act now before us for passage changes that and makes all men subject to the law and subject to damages for unlawful, concerted, monopolistic acts to destroy property and to injure persons." (93 Cong. Rec. 3554.)

> Congressman Kersten "The bill centers its attention upon this rank and file worker. It gives him a bill of rights within his own union." (93 Cong. Rec. 3577.)

The conference agreement by Section 8 (b) (1) provided administrative procedures to replace private damage

suits for interference with employee rights. Concerning this, Congressmen Hartley and Halleck made the following explanations:

> Hartley: "Just what really basic concessions did the House conferees make? We conceded on the ban in our bill on industry wide bargaining. We conceded on the ban in our bill on welfare funds. We conceded on the question of injunctions to be obtained by private employers and on the provisions making labor organizations subject to the antitrust laws.
>
> "I call your attention to what is left in the bill because I think you are going to find there is more in this bill than may meet the eye and may have been heretofore presented to you. * * * The House conferees were able to obtain Senate agreement to our policy finding. This bill, contrary to reports that have gone out—and the Senate conferees agreed with us on this—does prohibit mass picketing and the use of violence in the conduct of a strike. On that provision we accepted the Senate language which does restrict intimidation and coercion." (93 Cong. Rec. 6540.)
>
> Halleck: "The bill we passed (H. R. 3020) did forbid, and provide remedies for, activities and practices by labor, as well as activities and practices of management, that almost everyone condemns. Among these were * * * violence in strikes, * * *, coercion of employees by unions. * * *.
>
> "These clauses, I am glad to say, still are in the conference report. In form, many of them differ from the form in which they appear in the House bill. But they are in the report now before the House, and in effective form." (93 Cong. Rec. 6548.)

C. Proceedings in the Senate

During the debate in the Senate upon the Ball amendment which added Section 8 (b) (1) to S. 1126 and which was retained in the conference bill, the following colloquy appears:

> Mr. Ives: "I desire to say for the Record that right now we have a good National Labor Relations Board; and I think the Senator from Ohio will agree with me in that statement."
>
> Mr. Taft: "I do agree otherwise I would not be willing to grant them the great additional powers we give them in the pending bill."
>
> Mr. Ives: "* * * It will be found that governmental administrative bodies are generally pretty reasonable, and I am sure that it can be definitely said insofar as our present National Labor Relations Board is concerned. They welcome suggestions. They do not think they have the final answer to the questions we are considering. So, when it comes to the technics of administration, the procedures to be followed, I believe firmly that the Congress of the United States, the chief legislative body in America, has a responsibility in this connection. * * *."
>
> Mr. Taft: "I thank the Senator. The mere fact that we create a board to study matters further I do not think is an excuse for not dealing with an amendment as clear as the pending amendment or one which is so obviously necessary to place employers and employees on an equal basis, and protect the rights of employees against both."
>
> Mr. Taft: "* * * Mr. President I agree with the Senator from New York that we should draw a line between the things we can do and the things we cannot do. I fully agree with that distinction. I agree that many things that people would like to do are probably impracticable in the labor relations field. But the particular matter we are considering

is not impractical. Merely to require that unions be subject to the same rules that govern employers, and that they do not have the right to interfere with or coerce employees, either their own members or those outside their union, is such a clear matter, and seems to me so easy to determine, that I would hope we would all agree. Just as we have eliminated the unfair labor practices on the part of employers, just as they have been practically stopped by the National Labor Relations Act, I would hope that this process, while slower than direct court action, would bring an absolute end to the practices of which we complain, practices which are testified to, practices which are known to exist.

"Mr. President, I should like to call attention to the fact that the amendment proposed by the Senator from Minnesota (Mr. Ball) is practically contained in the Wisconsin Labor Relations Act and has been used in Wisconsin as a means not only of preventing the coercion of employees but also of attempting, bringing such action as can be brought by administrative law, to end mass picketing. Of course, if administrative law fails, it would be necessary finally to resort to the police powers of the States. * * *.

"Mr. President it seems to me that this is a practical amendment, one which is necessary if our theory of equality is to be carried out. * * *." (93 Cong. Rec. 4145-4146.)

During the Senate debate upon the Ball amendment, Senator Morse objected to the passage of Section 8 (b) (1) (A) upon the basis that coercive practices by unions against employees were local police problems and were matters for local criminal laws. (93 Cong. Rec. 4554, 4556). Notwithstanding these objections the amendment was passed. In answer Senator Ball said:

"It is true, as the Senator from Oregon has stated, that some types of union coercion, including the violence of the mass picket line, visits to the homes of employees, * * * and other such tactics are violations of State law in almost every state. I believe that the main remedy for such conditions is *prosecution* under State law and better *local law enforcement.* * * *.

"* * * But I think we shall encourage that kind of local law enforcement if the Federal Government, acting through Congress, states clearly its position that individual employees are entitled to their right of self-organization free from coercion from any source, whether it be the employer, the union, or some outside source." (93 Cong. Rec. 4559.) (Emphasis added.)

Senators Saltonstall and Morse interrogated Senator Taft concerning the meaning and effect of Section 8 (b) (1), to which he replied:

"* * * I think, when we get to the case of unions, there might me the actually violent act of forcibly, by mass picketing, preventing a man from working.

"Let us take the case of mass picketing, which absolutely prevents all the office force from going into the office of a plant. That would be a restraint and coercion against those employees, and interference with their right to work * * *.

"The effect of the pending amendment is that the Board may call the union before them, exactly as it has called the employer, and say: 'Here are the rules of the game. You must cease and desist from coercing and restraining the employees who want to work from going to work and earning the money which they are entitled to earn.' The Board may say, 'You can persuade them; you can put up signs, you can conduct any form of propaganda you want in order to persuade them, but you cannot, by threat

of force or threat of economic reprisal, prevent them from exercising their right to work.' * * *

"Mr. President, the amendment is founded on what I consider to be the basic theory of the entire bill, that is, an attempt to create equality between the employer and the employee. If anyone can point to anything in the bill which would impose on the labor union something not imposed upon the employer, certainly I would be in favor of amending it to create equality.

"* * * Like the Senator from Minnesota, I am not fond of the administrative procedure, but it is believed that if we retain the unfair labor practice procedure against employers, an effort should be made to bring about some measure of equality by defining unfair labor practices on the part of labor unions. Undoubtedly any such procedure is subject to abuse; but I think it will be largely controlled by court-review provisions. I see no reason to think it is more difficult for the unions than it is for the employer. * * *

* * *

"Mr. President, I can see nothing in the pending measure, which, as suggested by the Senator from Oregon, would in some way outlaw strikes. It would outlaw threats against employees. It would not outlaw anybody striking who wanted to strike. It would not prevent anyone using the strike in a legitimate way, conducting peaceful picketing or employing persuasion. All it would do would be to outlaw such restraint and coercion as would prevent people from going to work if they wished to go to work.

* * *

"The Senator from Oregon a while ago said that the enactment of this proposed legislation will result in duplication of some of the State laws. It will duplicate some of the State laws *only* to the extent, as I see it, that actual violence is involved in the threat or in the operation.

* * *

"Mr. President I may say further that one of the arguments has suggested that in case this provision covered violence it duplicated State law. I wish to point out that the provisions agreed to by the committee covering unfair labor practices on the part of labor unions also might duplicate to some extent that State law. Secondary boycotts, jurisdictional strikes, and so forth, may involve some violation of State law respecting violence which *may be criminal*, and *so* to some extent the measures may be duplicating the remedy existing under State law. But that, in my opinion, is no valid argument." (93 Cong. Rec. 4563.) (Emphasis added.)

Concerning the differences between S. 1126 and the Conference bill, Senator Taft explained:

"Section 7. In this section guaranteeing the right of employees to self-organization, to bargain collectively through representatives of their own choosing, and to engage in concerted activities, there has been inserted the language 'and shall also have the right to refrain from any and all of such activities * * * .' * * * The reason for its inclusion was that similar language had appeared in the House bill and since section 8 (b) (1) of the Senate bill, which was retained by the conferees, made it an unfair labor practice for labor organizations to restrain or coerce employees in the rights guaranteed them in Section 7, the House conferees insisted that there be express language in Section 7 which would make the prohibition contained in Section 8 (b) (1) apply to coercive acts of unions against employees who did not wish to join or did not care to participate in a strike or a picket line." (93 Cong. Rec. 7001.)

D. Subsequent History

On several occasions since its passage in 1947, proposals have been made for the amendment or repeal of the Taft-Hartley Act, and it was amended in 1951. However, the provisions of the Act here material remain intact.

In 1949 S. Rep. 99 on the National Labor Relations Act of 1949 (S. 249), 81st Cong., 1st Sess. (1949) proposed repeal of the Act and a minority report proposed amendments. (Minority Views, Part 2, S. Rep. 99 on S. 249). Both failed of passage in the Senate; however, comments of Senator Taft upon the minority proposals shed light upon the understanding of the Senate as to the meaning of the Taft-Hartley Act:

> "Mr. Taft: If the amendments which are proposed in the minority views are adopted, we shall have a new bill which still embodies the best features of the Taft-Hartley law. It will contain all the basic principles of equality between employers and employees and the prohibition of unfair labor practices on the part of both. It will impose responsibility on unions equal to the power they now have—and will retain under this bill—including the obligation to bargain collectively, to be liable in court for damages resulting from breach of contract, secondary boycotts and jurisdictional strikes. It will retain all of the important protection given to individual employees against arbitrary union power.
>
> "'List of Important Features Retained:
>
> • • •
>
> "3. Unions as well as employers remain responsible on their contracts, and are liable to suit as if they were corporations in the Federal courts. They are also liable for damages caused by secondary boycotts and jurisdictional strikes.
>
> • • •

"5. It remains an unfair labor practice for a union or an employer to coerce employees in such a way as to interfere with their right of organization or their right to work. This prohibits mass picketing." (95 Cong. Rec. 5589.)

* * *

"List of Proposed Changes from the Taft-Hartley Law:

* * *

"7. The responsibility of unions for the restraint of employees is eliminated, but the illegality of coercion of employees in their right to work is reasserted. Section 7 and Section 8 (b) (1)." (95 Cong. Rec. 5590.)

III.

THE ADMINISTRATIVE LAW APPROACH

In enacting the Wagner Act it was the object of Congress "to dispel the confusion resulting from dispersion of authority and to establish a single paramount administrative or quasi-judicial authority in connection with the development of the Federal American law regarding collective bargaining." S. Rep. 573, 74th Cong., 1st Sess., 15.

H. R. 3020 proposed to modify this by making all unfair labor practices the subject of private suits for injunction and damages. H. R. Rep. 245 on H. R. 3020, 80th Cong., 1st Sess. 43; H. R. 3020, Sec. 12.

This proposal on the part of the House was rejected, except in two instances, breach of contract and secondary boycotts. Senator Ball, one of the authors of the bill, and Senator Ives, one of its opponents, made it abundantly clear during debate that Congress, in so doing, was retaining the "administrative-law approach to these problems." 93 Cong. Rec. 4559, See also 93 Cong. Rec. 4132.